

EDWARD COMPTON TREISBACK,  
Plaintiff,  
vs.  
FEDERAL TRANSFER CENTER,  
OKLAHOMA CITY, OKLAHOMA,  
et al.,  
Defendants.

VS.

FEDERAL TRANSFER CENTER, )  
OKLAHOMA CITY, OKLAHOMA, )  
et al., )  
 )  
Defendants. )

On April 15, 2016, United States Magistrate Judge Bernard M. Jones granted the Application for Leave to Proceed in Forma Pauperis [Doc. 6] submitted by plaintiff Edward Compton Treisback and found that Treisback was entitled to proceed without full prepayment of the filing fee or an initial filing fee. See Doc. 7. Magistrate Judge Jones advised Treisback that he would be required to pay the filing fee of \$350.00 in monthly payments of twenty percent (20%) of the preceding month's income credited to his institutional account(s) until he had paid that fee in its entirety. See Doc. 7 at 1. Treisback was further advised that if he did not want the filing fee to be collected from his account(s) he could voluntarily dismiss this action in accordance with Rule 41(a), F.R.Civ.P., by a designated date, without incurring any fees or costs. See Doc. 7 at 1.

Treisback was cautioned that notwithstanding the payment of the filing fee, or any portion thereof, this action could be dismissed if it was determined that the allegations advanced in his complaint were frivolous or malicious, failed to state a claim on which relief could be granted or sought monetary damages against a defendant who was immune from

such relief. See id. at 2 (citing 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1)). Magistrate Judge Jones thereafter reviewed Treisback's complaint, and on April 25, 2016, he issued a Report and Recommendation. In that document, he suggested that this Court dismiss this matter without prejudice under sections 1915(e)(2)(B)(ii)<sup>1</sup> and 1915A(b).<sup>2</sup> See Doc. 8.

Pursuant to Rule 5.4, Rules of the United States District Court for the Western District of Oklahoma, the Clerk of the Court mailed a copy of Magistrate Judge Jones' Report and Recommendation to the address supplied by Treisback when he filed his complaint. See Doc. 1 at 1. The document was returned to the Clerk by the United States Postal Service with the following notations on the envelope: "Return to Sender Unable to Forward" and "Released or Away on Court Order." See Doc. 10 at 1.<sup>3</sup>

Rule 5.4(a) requires pro se litigants to provide the Court with a mailing address and to file with the Clerk notice of any change of address. Treisback has not complied with this rule. He likewise has neither voluntarily dismissed this matter under Rule 41(a), supra, nor objected to the Report and Recommendation within the allotted time. In light of Treisback's inaction and noncompliance and because Magistrate Judge Jones has fully and accurately dealt with the issues presented by Treisback's complaint at this stage of the proceedings,

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<sup>1</sup>See 28 U.S.C. § 1915(e)(2)(B)(ii)(court shall dismiss case at any time if it determines that action fails to state a claim on which relief may be granted).


<sup>2</sup>See id. § 1915A(b)(court shall identify cognizable claims or dismiss the complaint, or any portion thereof, if complaint fails to state a claim upon which relief may be granted).

<sup>3</sup>The record shows that a prior Order issued by Magistrate Judge Jones had also been returned by the Postal Service to the Clerk with the following notations on the envelope: "Return to Sender Not Deliverable as Addressed Unable to Forward" and "Released or Away on Court Order." See Doc. 9 at 1.

the Court

- (1) ADOPTS the Report and Recommendation [Doc. 8] filed on April 25, 2016;
- (2) DISMISSES this matter without prejudice; and
- (3) as Magistrate Judge Jones further recommended, ORDERS this dismissal count as a "strike." E.g., 28 U.S.C. § 1915(g).

ENTERED this 31<sup>st</sup> day of May, 2016.



LEE R. WEST  
UNITED STATES DISTRICT JUDGE